

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

SOLOMON L. HENDERSON,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 1:05-CV-958-T
)	[WO]
)	
GREG WARD, et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

This case is before the court on a 42 U.S.C. § 1983 complaint filed by Solomon L. Henderson ["Henderson"], a former inmate of the Geneva County Jail. At the time he filed this complaint, Henderson did not pay the \$250.00 filing fee, nor did he submit an affidavit in support of a motion for leave to proceed *in forma pauperis*. Thus, the court did not have the information necessary to determine whether Henderson should be allowed to proceed *in forma pauperis* in this case and therefore entered an order requiring that Henderson provide the court with such information. *See Order of October 24, 2005 - Court Doc. No. 2* at 1-2. This order specifically cautioned Henderson that his failure to comply with the order would result in a recommendation that this case be dismissed. *Id.* at 2. Henderson failed to respond to the aforementioned order.

On December 6, 2005, the court entered an order that Henderson "show cause why this case should not be dismissed for his failure to submit the \$250 filing fee or file an

affidavit for leave to proceed *in forma pauperis* in compliance with the directives of the order entered on October 24, 2005 (Court Doc. No. 2)." *Court Doc. No. 5*. The court cautioned Henderson "that if he fails to file a response to this order the undersigned will recommend that this case be dismissed." *Id.* Henderson has filed nothing in response to this order.

CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for Henderson's failure to comply with the orders of this court. It is further

ORDERED that on or before January 19, 2006 the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation objected to. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a de novo determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); *Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982); *Bonner v. City of*

Prichard, 661 F.2d 1206 (11th Cir. 1981, *en banc*) (adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981).

DONE, this 6th day of January, 2006.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
UNITED STATES MAGISTRATE JUDGE